Filed 5/13/19 In re A.W. CA1/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re A.W., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. A.W., Defendant and Appellant.	A154033 (Contra Costa County Super. Ct. No. J15-00632)

A.W. (defendant), born September 2000, appeals from the juvenile court's victim restitution order, its order denying his motion to suppress evidence, and its jurisdictional and dispositional orders placing him in out-of-home placement for committing felony possession of a firearm by a minor (Pen. Code, § 29610). He contends the court erred in: (1) ordering victim restitution in the amount of $599; and (2) denying his motion to suppress evidence. We reject his contentions and affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

The facts and procedures leading up to the orders from which defendant appeals are detailed in our prior opinion, *In re A.W.* (Mar. 27, 2018, A152281) [nonpub. opn.], of which we take judicial notice. To summarize, a juvenile wardship petition was filed on June 3, 2015, charging defendant with three Vehicle Code violations. Defendant admitted two of the three charges and the other charge was dismissed. The juvenile court

declared defendant a ward of the court and committed him to the Orin Allen Youth Rehabilitation Facility (OAYRF) for six months with an additional 90-day release period.

Defendant violated his probation four times by assaulting other wards on two occasions, violating the rules at his placement, and leaving his placement without permission. The juvenile court extended defendant's OAYRF commitment for 30 days, then placed him in three other out-of-home placements. On March 22, 2017, the court terminated defendant's placement, set aside the placement order, and ordered him returned to his mother's custody.

On May 30, 2017, a probation violation notice was filed (Welf. & Inst. Code, § 777) alleging defendant had committed robbery (Pen. Code, § 211). After a contested probation violation hearing, the juvenile court found defendant had committed grand theft (Pen. Code, § 487, subd. (c)). The court ordered defendant to continue as a ward of the court with no termination date, removed him from his mother's custody, and ordered him to complete a nine-month program at OAYRF. The court also ordered defendant to pay victim restitution in an amount to be determined at a later date. Defendant appealed from the probation violation and dispositional orders, and we affirmed. (*In re A.W.*, *supra*, A152281.)

On February 14, 2018, while the first appeal was pending, the juvenile court held a contested hearing to determine the restitution owed defendant's grand theft victim. The court ordered victim restitution in the amount of $599, with defendant being jointly and severally liable for that amount with a co-responsible.

On February 15, 2018, a supplemental juvenile wardship petition was filed charging defendant with felony possession of a firearm by a minor (Pen. Code, § 29610). Defendant denied the allegation and filed a motion to suppress evidence. After a contested suppression motion and jurisdictional hearing, the juvenile court denied the motion to suppress evidence, sustained the petition based on a finding that defendant possessed a firearm as a minor, and ordered defendant to continue as a ward of the court. At disposition, the court removed him from his mother's custody and committed him to

OAYRF for a 12-month program with an additional 180 days of conditional ranch aftercare.

DISCUSSION

1. Victim Restitution Order

Defendant contends the juvenile court erred in ordering victim restitution in the amount of $599. We reject his contention.

a. Background

On May 25, 2017, the victim of the grand theft, H.V., was sitting in the passenger seat of a parked car when defendant and seven or eight others approached him and started hitting him in the face. H.V. tried to get out of the driver's side door but defendant prevented him from exiting. H.V.'s left ear was cut and his arm was sore. Someone tried to take H.V.'s cell phone from his hand, and someone took his sweatshirt. H.V. identified defendant and a co-responsible as having been involved in the attack.

H.V. submitted a restitution claim for $599.99, stating defendant and his co-responsibles damaged his cell phone while trying to steal it. He submitted a receipt dated July 2015 that showed an "iPhone 6 Gold 16GB" was purchased for $649.99 and that a "Down Payment" of $50.00 was made, leaving a "Loan Amount" of $599.99.[1] He submitted a December 2016 Sprint cell phone bill showing that an "Installment Agreement" for an "iPhone 6 16GB" "has been paid in full" in the amount of $599.99.

At a February 14, 2018 contested victim restitution hearing, defense counsel argued H.V. was not entitled to restitution because it was not credible that his phone was damaged and no longer functional. Counsel noted that H.V. testified at the jurisdictional hearing that he received text messages after the incident and used his phone to watch a

[1] Although the receipt shows the purchase price of the iPhone 6 16GB was $649.99, H.V. did not request restitution in that amount; rather, his claim was for $599.99, which was the "Loan Amount" listed on the receipt.

social media video, which he then showed to a police officer.[2] Counsel for defendant's co-responsible argued that even if H.V. was entitled to restitution, he was not entitled to $599. Counsel stated, "I don't know what condition [H.V.'s phone] was in," but noted that a refurbished iPhone 6 16GB could be purchased for $198.99.

The defense presented an exhibit that showed a search conducted on "Walmart.com" for a refurbished iPhone 6. One listing for a "Space Grey" "Refurbished Apple iPhone 6 16GB GSM Smartphone (Unlocked)" had a price of $198.99 and was being "Sold & shipped by ItsWorthMore.com LLC." A "Disclaimer" stated the item is refurbished and that the product information "is provided by manufacturers, suppliers, and others, and has not been verified by us." The phones were "unlocked to work on any GSM carrier such as AT&T and T-Mobile" but not on "CDMA Networks such as . . . Sprint, Verizon, Boost and U.S. Cellular." There was a "Customer reviews" section showing five reviews. One customer stated the phone "worked fine for a couple of months" before "[I] started having battery problems" and the phone did not "hold the charge for a very long time." Another customer received a phone "with many finger prints" and "needed cleaning . . . ." Another customer received a "like new" phone, and another stated it was "hard to believe it was really refurbished." One customer stated the phone "[w]orks great[.]"

The trial court stated after reviewing the exhibit, "This is a refurbished one, not a new one," and asked how much a new phone would cost. Counsel for defendant's co-responsible said she could not find a new iPhone 6 for sale because "they stop making the phone as you go on because they [lose] their value because they're outdated . . . ."

The prosecutor stated that H.V., who was present in court, had explained to her that the side of the iPhone was cracked as a result of the force that was applied to it when the perpetrators grabbed the phone and H.V. held onto it. H.V. noticed "some of the functions of the phone were negatively affected by that damage, things like the phone's

[2] The transcript from the jurisdictional hearing shows that H.V. watched a social media video and showed it to police. H.V. did not testify that he used his cell phone to watch and show the video.

ability to hold a charge, dropped phone calls, the ability to switch [the] phone from full volume to silence, being able to hear other people on the other end of a phone call, things like that, which are sort of central to what a phone does. That's not to say that it doesn't have some capability, but that's hardly the same as having a fully usable phone as it was intended[.]" The prosecutor noted that H.V. had made his claim in a "signed, sworn statement" and that there was nothing from his testimony at the jurisdictional hearing that "cast[s] doubt on the fact that the phone was damaged as a result of the offense." The prosecutor also noted that the defense exhibit, which shows the *current* price of a refurbished phone, does not reflect the value of the phone at the time of the offense.

The juvenile court found H.V. credible and awarded him $599 in restitution for the phone. The court stated it had presided over the jurisdictional hearing and had found H.V. to be "extremely ethical" and "very credible." The court noted H.V. was also "pretty understated" in describing how "two hulking kids jump[ed] on him" and "pull[ed] at him," and that he was not the type of person who would "try[] to make it bigger than it was."

Then, apparently in response to something the prosecutor said or did, the juvenile court asked, "What, Ms. Stevens [prosecutor]?" The court continued: "That's what it costs to get a 6 phone now, and I think you can actually get a 6 phone. But I just happened to tell counsel in chambers I just was in the I-Phone store, and I am sitting there with a 6 phone. So that was not intended to be intentional. I just happened to go in myself to fix my phone. [¶] So do you have any concerns about my decision?" The prosecutor stated it is "just" that she "recognize[s] there was some degree of depreciation between when he bought the phone in 2016 and when the offense occurred." The court responded, "If he tried to get a phone now, it would cost him, I believe, at least $599. He has a right to be made whole. He has a right to have a phone that works. I find him credible. I find that $599 actually to be quite reasonable given the cost of phones now. So as I mentioned, I was just in the store, and the phones were very, very expensive. So I am going to grant that as restitution, $599 to [H.V.]." "Joint and several to both minors."

b. Discussion

In 1982, the voters passed Proposition 8, making entitlement to restitution the constitutional right of every crime victim. (*In re Brittany L*. (2002) 99 Cal.App.4th 1381, 1386.) Thereafter, the Legislature enacted Welfare and Institutions Code section 730.6, which provides in part that a victim who incurs an economic loss as a result of a minor's conduct shall receive restitution directly from that minor. (Welf. & Inst. Code, § 730.6, subd. (a)(1).) "The purposes of an order for victim restitution in delinquency cases are threefold: to make the victim whole by compensating the victim for economic losses, to rehabilitate the minor, and to deter future delinquent behavior. [Citations.]" (*In re Cristian S.* (2017) 9 Cal.App.5th 510, 519.)

A juvenile court must order "full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record." (Welf. & Inst. Code, § 730.6, subd. (h)(1).) The order "shall be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor's conduct . . . including . . . : [¶] (A) Full or partial payment of the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible." (Welf. & Inst. Code, § 730.6, subd. (h)(1).)

A victim's statement as to the original cost of a stolen or damaged item is "competent evidence of replacement cost and sufficient to support a restitution award." (*People v. Tabb* (2009) 170 Cal.App.4th 1142, 1154.) Thus, a trial court may "accept a property owner's statement . . . about the value of stolen or damaged property as prima facie evidence of loss. [Citation]." (*Ibid*.) This is because a restitution hearing "does not require the formalities of other phases of a criminal prosecution. [Citation.]" (*People v. Foster* (1993) 14 Cal.App.4th 939, 947, superseded by statute on another ground as stated in *People v. Sexton* (1995) 33 Cal.App.4th 64, 70.) " 'Once the victim makes a prima facie showing of economic losses incurred as a result of the defendant's criminal acts, the burden shifts to the defendant to disprove the amount of losses claimed by the victim.' [Citation]." (*People v. Tabb*, at p. 1154.) The standard of proof at a

restitution hearing is by a preponderance of the evidence, not proof beyond a reasonable doubt. (*People v. Millard* (2009) 175 Cal.App.4th 7, 26.)

We review the trial court's restitution award for an abuse of discretion. (*In re K.F.* (2009) 173 Cal.App.4th 655, 661.) " ' "When there is a factual and rational basis for the amount of restitution ordered by the trial court, no abuse of discretion will be found by the reviewing court." ' [Citations.]" (*In re Johnny M.* (2002) 100 Cal.App.4th 1128, 1132.) When the gist of the defendant's argument is that the evidence was insufficient to support the amount awarded, we review the order for substantial evidence. (*In re K.F.*, at pp. 661–662.)

Here, the juvenile court's award of restitution was rational, based on the evidence presented, and within its broad discretion. Defendant argues there was insufficient evidence to support a finding that H.V.'s phone was damaged and no longer functional. However, the court found H.V. was "very credible," and we as a reviewing court will not second-guess the court's credibility findings. (*People v. Barnes* (1986) 42 Cal.3d 284, 306 [it is the exclusive province of the trier of fact to determine the credibility of a witness].) Even if H.V.'s prior testimony can be interpreted to mean that his iPhone 6 functioned well enough after the incident that he could receive text messages or watch videos on it, this evidence was not inconsistent with the prosecution's representation—and the court's finding—that the iPhone 6 was damaged in a way that rendered it unusable as a phone. (See *People v. Baker* (2005) 126 Cal.App.4th 463, 469 ["We do not reweigh or reinterpret the evidence; rather, we determine whether there is sufficient evidence to support the inference drawn by the trier of fact"].)

Defendant also argues H.V. received an "improper windfall" because $599 was more than the replacement cost of his phone. As noted, however, the victim's statement as to the original cost of a stolen or damaged item is "competent evidence of replacement cost and sufficient to support a restitution award." (*People v. Tabb, supra,* 170 Cal.App.4th at p. 1154; *People v. Gemelli* (2008) 161 Cal.App.4th 1539, 1543; see *People v. Foster*, *supra*, 14 Cal.App.4th at pp. 944, 946 [affirming $8,000 victim restitution award where the victim told probation that she purchased the Persian rug that

defendant stole for $8,000].) H.V.'s declaration that his assailants "damaged [his] phone," his July 2015 receipt showing the purchase price of the phone and a $599.99 financing amount, and his December 2016 cell phone bill showing the $599.99 was paid in full were sufficient to support a prima facie showing of the amount of loss.

Moreover, once a prima facie showing was made, it was defendant's burden to disprove the amount of loss (*People v. Tabb*, *supra*, 170 Cal.App.4th at p. 1154), which he failed to do. He presented the court with an exhibit that showed a refurbished iPhone 6 16GB for sale for $198.99, but as the court noted, the listing was for a refurbished phone. The condition of the phone was unknown, and two of the five customers who submitted reviews had complaints about the phones they had received. The phone was also unlocked for use with only certain cell phone carriers and was being sold by an entity whose product information had not been verified. Moreover, the exhibit reflected the value of a refurbished iPhone as of February 2018—nine months after defendant and his co-responsibles damaged H.V.'s iPhone. Under these circumstances, the court could reasonably determine defendant did not meet his burden of disproving the amount of loss.

People v. Chappelone (2010) 183 Cal.App.4th 1159, on which defendant relies, is distinguishable. There, the Court of Appeal held the trial court abused its discretion in valuing items stolen from a Target store at their full retail value totaling over $200,000 despite the fact that the defendant presented evidence, which "was undisputed at the restitution hearing," that most of the items she and her codefendant stole were damaged, unsellable goods that were in a stockroom, to be donated to the Rotary Club "at 30 cents on the dollar of the last retail price." (*Id.* at pp. 1169, 1173–1174, 1175.) In contrast, here, defendant did not present any "undisputed" evidence that the replacement value of H.V.'s phone was less than $599 as of the date of the incident.[3]

[3] Defendant also relies on *S.G. v. State* (Ind.Ct.App. 2011) 956 N.E.2d 668, an out-of-state case that is not binding. There, the victim paid $399 for an iPhone 3G that was stolen; thereafter, she purchased a newer model iPhone 4G and a case for about $450. (*Id.* at p. 683.) Her restitution request also included the cost of a technology plan

" ' "In keeping with the [voters'] 'unequivocal intention' that victim restitution be made, statutory provisions implementing the constitutional directive have been broadly and liberally construed." ' [Citation.]" (*Luis M. v. Superior Court* (2014) 59 Cal.4th 300, 305.) Thus, a "court may use any rational method of fixing the amount of restitution which is reasonably calculated to make the victim whole and which is consistent with the purpose of rehabilitation." (*In re Brian S.* (1982) 130 Cal.App.3d 523, 527.) " 'If the circumstances reasonably justify the [trial court's] findings,' the judgment may not be overturned when the circumstances might also reasonably support a contrary finding." (*People v. Baker, supra,* 126 Cal.App.4th at p. 469.) Here, the juvenile court's restitution award was rational and supported by the evidence, reasonably calculated to make H.V. whole, and consistent with the purpose of rehabilitating defendant. (*In re Brittany L., supra,* 99 Cal.App.4th at p. 1387 [requiring the minor to make complete reparation to the victims is likely to " 'make an impression on the [minor]' " and is consistent with the goals of victim restitution].)

Finally, defendant argues the order must be reversed because the juvenile court improperly relied upon "speculation" and "personal knowledge" of the cost of a new iPhone 6 rather than on the evidence presented at the restitution hearing. The record shows, however, that the court based its order on H.V.'s representation that his assailants damaged his phone, its credibility findings as to H.V., evidence of the original cost of the phone, and defendant's failure to disprove the amount of loss. In fact, at the hearing, the court did not even discuss its visit to the cell phone store until after it had stated its decision to award $599 to the victim. Further, even assuming the court erred in relying on its own observations in a cell phone store, we conclude any error was harmless because there was sufficient other, competent evidence—e.g., H.V.'s claim, receipt and

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and tax, for a total of $500.76. (*Ibid*.) In reversing the restitution order for the full amount, the *S.G.* court held the victim was entitled to the replacement value of the original phone, not the price of "better or more state of the art equipment." (*Id.* at p. 684.) Here, in contrast, there was no evidence H.V. purchased a "better or more state of the art" phone, and defendant presented no evidence to show H.V. would have been able to purchase such a phone with $599 at the time of the offense.

cell phone bill, and defendant's failure to disprove the amount—from which the court could properly find victim restitution in the amount of $599.

2. Motion to Suppress Evidence

a. Background

At about 8:00 p.m. on February 13, 2018, Richmond police officers Jesse Sousa and Lane Matsui were on duty traveling in a black, unmarked patrol car with lights and a siren when they saw two males walking northbound "on the east curb line" of the road. One of the males, later identified as defendant, was wearing a hooded sweatshirt and a "beanie skull mask" "down over his face." The mask had "eyes that are cut out" and covered most of defendant's face. Sousa testified that it was a cold night but "it wasn't freezing," and that he found it "unusual for someone to wear that style mask while walking down the street." He added that such masks are often used by criminals "[t]o disguise their identity." The other male had a hood on his head and both of the males were wearing backpacks.

When Sousa drove past the two males, the males looked at the car and stopped for "a brief second." As soon as Sousa made a U-turn and began approaching the males from the front, the males immediately began running "in a full sprint," then ran off in separate directions. Matsui testified that "the moment [defendant] started to run . . . [defendant] immediately grabbed for his waistband and was holding something there. He never took his hand off," and it was as if that hand "was cemented to the front right waistband area." It was "probably the most blatantly obvious hold of his waistband that I've ever seen . . . ." Sousa testified that he noticed defendant's right hand at his waistband just before he activated his patrol car's emergency lights. Matsui testified that he noticed defendant holding his right waistband "after the red light was illuminated[.]"

Sousa and Matsui followed the males in their patrol car, and when defendant turned to run in a different direction, Sousa stopped the car and Matsui jumped out, screaming at defendant more than once to stop running. Sousa then got out of his patrol car and saw defendant climbing a six- or seven-foot high chain-link fence. Matsui was right behind defendant and grabbed a hold of defendant's leg "for a brief moment,"

which caused the fence to swing open. Matsui let go of defendant's leg, and defendant fell to the other side of the fence. As defendant attempted to get up and continue fleeing, Sousa went through the gate and pushed defendant to the ground. The officers then handcuffed and arrested defendant.

Another Richmond police officer who arrived at the scene searched defendant and found a bag of nine-millimeter ammunition in defendant's outside jacket pocket. Defendant then said to Sousa, "[H]ey, can you get me my cell phone? It's on the ground." Defendant nodded his head to his right. There, on the ground, right next to where defendant landed after he fell from the fence, was a cell phone. About one foot away from the cell phone lay a Springfield semiautomatic subcompact nine-millimeter handgun with a magazine in it. The firearm was examined at the Hall of Justice, and ammunition was found in the magazine and chamber.

The juvenile court denied defendant's motion to suppress evidence of the gun and ammunition.

b. Discussion

Defendant contends the juvenile court erred in denying his motion to suppress evidence because the officers did not have reasonable suspicion to detain and search him. We disagree.

"Police contacts with individuals may be placed into three broad categories ranging from the least to the most intrusive: consensual encounters that result in no restraint of liberty whatsoever; detentions, which are seizures of an individual that are strictly limited in duration, scope, and purpose; and formal arrests or comparable restraints on an individual's liberty. [Citations.]" (*In re Manuel G.* (1997) 16 Cal.4th 805, 821.) With respect to the second category, a police officer "may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot." (*Illinois v. Wardlow* (2000) 528 U.S. 119, 123; *Terry v. Ohio* (1968) 392 U.S. 1.)

To justify a detention, i.e., an investigative stop, "the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from

those facts," would " 'warrant a [person] of reasonable caution in the belief' that the [stop] was appropriate[.]" (*Terry v. Ohio*, *supra*, 392 U.S. at pp. 21, 22; *United States v. Cortez* (1981) 449 U.S. 411, 417 & fn. 2 [the detention must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity or is wanted for past criminal conduct].) The level of suspicion required to justify the detention "is obviously less demanding than that for probable cause," i.e., a fair probability that evidence of crime will be found, and is also "considerably less than proof of wrongdoing by a preponderance of the evidence"; rather, "[t]he Fourth Amendment requires 'some minimal level of objective justification' for making the stop." (*United States v. Sokolow* (1989) 490 U.S. 1, 7.) When assessing the constitutional validity of an investigatory stop, a court "must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." (*United States v. Arvizu* (2002) 534 U.S. 266, 273.)

Whether a Fourth Amendment detention has taken place is to be determined by an objective test that asks "not whether the citizen perceived that he was being ordered to restrict his movement, but whether the officer's words and actions would have conveyed that to a reasonable person." (*California v. Hodari D.* (1991) 499 U.S. 621, 628.) "Thus, when police engage in conduct that would 'communicate[] to a reasonable person that he was not at liberty to ignore the police presence and go about his business,' there has been a seizure. [Citations.]" (*People v. Celis* (2004) 33 Cal.4th 667, 673.) However, there is no detention and no Fourth Amendment seizure until the alleged "detainee's" liberty is in fact restrained: A seizure "requires *either* physical force . . . *or*, where that is absent, *submission* to the assertion of authority." (*California v. Hodari D.*, *supra*, 499 U.S. at p. 626 [an officer's mere show of authority enjoining the defendant to stop, without application of physical force, does not constitute a Fourth Amendment seizure].)

In reviewing an order denying a motion to suppress evidence, we review the record in the light most favorable to the trial court's ruling, deferring to its express or implied factual findings if they are supported by substantial evidence. (*People v. Jenkins* (2000) 22 Cal.4th 900, 969.) We also exercise our independent judgment and determine

whether, under the facts as found, the police acted reasonably under the Fourth Amendment. (*People v. Leyba* (1981) 29 Cal.3d 591, 597.)

Here, in denying the motion to suppress evidence, the juvenile court stated, "I don't think this was a mere hunch." The court noted the officers responded to the fact that defendant was wearing a mask—something that is often used for criminal activity—when it was not so cold that he would need a mask. The males also paused when the officers drove by and fled as soon as the officers made a U-turn. Defendant continued to run despite Matsui's multiple commands to stop, which gave the officers "further reason to pursue him and be concerned about [the officers'] safety . . . , especially when [defendant is] running with a gun or what appears to be a gun." "And so for all those reasons, I find that there was reasonable suspicion in the wearing of the mask, the stopping, the running, the clutching of the waistband in a very obvious manner before even the lights went on, and the conduct thereafter just ensures that the officers have reasonable suspicion there's criminal behavior afoot . . . ."[4]

We conclude the juvenile court's factual findings were supported by substantial evidence and agree with its analysis regarding the officers' reasonable suspicion to detain defendant. Although the court did not explicitly state when it believed the detention occurred, there was ample evidence to support a finding that the officers had reasonable suspicion at the latest when Matsui grabbed onto defendant's leg as he climbed the chain-

[4] The juvenile court elaborated on its finding that the emergency lights went on before defendant was observed with his hand on his waistband: "[A]lthough there's a discrepancy between what Officer Matsui remembers and Officer Sousa remembers, I credit Officer Sousa more . . . because he's the one that flipped the switch. So he is the . . . one better able to recall what he was thinking and . . . the timing of when he flipped it on. His . . . subjective belief is not the issue, but rather it does inform what he recalls about when the lights went on relative to the observations. [¶] . . . [¶] . . . And I think that's particularly a fair inference because Officer Matsui said it was the most obvious—he said his hand is cemented as if holding something down very blatantly," which "means [defendant] had to hold that gun there or it was going to fall. And so the minute he started to run, he would have had to have done that if it is such an obvious holding of the waistband. [¶] So I do find that Officer Sousa more likely than not observed that as part of the totality of the circumstances that led him to flip on the lights."

link fence.[5] Defendant argues that "flight by itself is insufficient" to justify a detention, but the officers here had more than just defendant's flight before them.

Defendant was wearing a mask that covered almost his entire face—similar to ones used by criminals "[t]o disguise their identity"—when it was not cold enough to be wearing such a mask. He stopped when he noticed the officers, and immediately sprinted away—without any provocation—as the officers began to approach. (See *Illinois v. Wardlow*, *supra*, 528 U.S. at p. 125 [an individual has a right to ignore the police and go about his or her business when approached, but "unprovoked flight," "by its very nature is not 'going about one's business'; in fact, it is just the opposite"].) He clutched onto his waistband as if he was carrying a gun, and kept his hand "cemented" to his waistband. He continued to flee despite multiple commands to stop. In light of these specific and articulable facts, the officers reasonably suspected defendant was involved in some activity related to a crime that had taken place or was about to occur.

Defendant also challenges the juvenile court's decision by providing various innocent explanations for his actions, including why he was wearing a mask and why he ran from police. He notes that he and his companion were not walking in a suspicious manner and there was no evidence they were in a high-crime area. "The possibility of an innocent explanation," however, "does not deprive the officer of the capacity to entertain a reasonable suspicion of criminal conduct," and a different result is not warranted merely because circumstances known to an officer may also be " 'consistent with lawful activity . . . .' " (*In re Tony C.* (1978) 21 Cal.3d 888, 894; *People v. Saunders* (2006) 38 Cal.4th 1129, 1136–1137 [the "possibility of an innocent explanation . . . does not

[5] Defendant argues the detention occurred when the officers "activated the lights of their police vehicle, chased the minor by car and foot, and grabbed the minor's leg as he climbed over a chainlink fence . . . ." To the extent he is arguing the detention occurred when the officers activated the emergency lights, we reject the argument. As noted, a seizure "requires *either* physical force . . . *or*, where that is absent, *submission* to the assertion of authority." (*California v. Hodari D.*, *supra*, 499 U.S. at p. 626 [an officer's mere show of authority enjoining the defendant to stop, without application of physical force, does not constitute a Fourth Amendment seizure].) The earliest the detention could have occurred in this case was when Matsui grabbed defendant's leg.

preclude an officer from effecting a stop to investigate the ambiguity"].) In fact, the principal function of an investigation is "to resolve that very ambiguity and establish whether the activity is in fact legal or illegal—to 'enable the police to quickly determine whether they should allow the suspect to go about his business or hold him to answer charges.' " (*In re Tony C.*, *supra*, 21 Cal.3d at p. 894.) The officers had reasonable suspicion to detain defendant when Matsui grabbed defendant's leg, and the court did not err in denying the motion to suppress evidence.

DISPOSITION

The judgment is affirmed.

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Wiseman, J.*

WE CONCUR:

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Siggins, P. J.

_____
Petrou, J.

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* Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.